

FILED

MAR 28 1995

HONORABLE JUDGE
MARIN COUNTY CLERK
BY: E. K. [unclear] Deputy

1 **WILLIAM R. BENZ, ESQ. #037376**
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3 Larkspur, California 94939
4 Telephone: (415)461-6633

5 **SPECIAL REFEREE**

6
7 **SUPERIOR COURT OF CALIFORNIA**
8 **COUNTY OF MARIN**

9
10 **CHURCH OF SCIENTOLOGY**
11 **INTERNATIONAL, a California not-for-**
12 **profit religious corporation,**

13 **Plaintiff,**

14 **vs.**

15 **GERALD ARMSTRONG, MICHAEL**
16 **WALTON, THE GERALD ARMSTRONG**
17 **CORPORATION, a California not-for-**
18 **profit corporation, et al.,**

19 **Defendants.**

No. 157680

REPORT AND RECOMMENDATION
OF DISCOVERY REFEREE WITH
PROPOSED ORDER RE PLAINTIFF'S
MOTION FOR PROTECTIVE ORDER
RE INTERROGATORIES and ORDER

Hearing Date: 3/9/95
Trial Date: 5/18/95

20 **ORDER OF REFERENCE**

21 This court has appointed the undersigned, WILLIAM R. BENZ, as Special
22 Referee in this action for the purpose of supervising, hearing, and determining any and all
23 motions and disputes relating to discovery.

24 **HEARING**

25 A hearing was held on March 9, 1995 at the office of William R. Benz. Present
26 were Laurie Bartilson, Esq. on behalf of plaintiff and Gerald Armstrong, in pro per and
27 on behalf of the Gerald Armstrong Corporation, defendants. The hearing was reported.

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MATTER CONSIDERED AND DECIDED

The matter considered and decided was plaintiff's motion for a protective order regarding answering the 1150 special interrogatories propounded by defendant Gerald Armstrong to plaintiff.

FINDINGS

The Special Referee finds:

(1) That there is no declaration attached to the 1150 special interrogatories and that any special interrogatories in excess of 35 should be disallowed.

(2) That Gerald Armstrong has not carried his burden under Code of Civil Procedure section 2030 (c)(2)(c) of showing that the interrogatories in excess of 35 were justified.

(3) That none of the 1150 interrogatories is relevant to the subject matter of the action nor reasonably calculated to lead to the discovery of admissible evidence. This finding is based in part upon the fact that issues to which the interrogatories may have been relevant have been removed from the case by court rulings on summary adjudication.

(4) That plaintiff has withdrawn its request for sanctions against Ford Greene who is no longer counsel for defendants Gerald Armstrong and the Gerald Armstrong Corporation and did not oppose this motion for a protective order.

(5) That plaintiff is entitled to sanctions against Gerald Armstrong in the sum of \$500.00 under the provisions of Code of Civil Procedure section 2030(e)(7). All other requests for sanctions should be denied.

(6) That the fees for the Special Referee continue to be divided equally among the parties as follows: Church of Scientology to pay one-third; Gerald Armstrong to pay one-third; Michael Walton to pay one-third.

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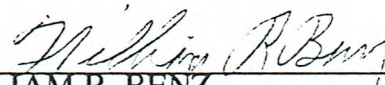
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RECOMMENDATIONS

The Special Referee recommends that the Court make the order set forth below.

Dated: March 22, 1995

Respectfully submitted,



WILLIAM R. BENZ

PROPOSED ORDER

Having considered the above report of the Special Referee and good cause appearing,

IT IS ORDERED

1. The Report of the Special Referee is adopted.
2. The motion of plaintiff Church of Scientology, International for a protective order as to the 1150 special interrogatories is granted, and plaintiff need not respond to said interrogatories.
3. Defendant Gerald Armstrong shall pay the sum of Five Hundred Dollars (\$500.00) to plaintiff Church of Scientology International as sanctions under Code of Civil Procedure section 2030(e)(7). Any other request for sanctions is denied.
4. Fees of the Special Referee shall continue to be divided among the parties as follows: Church of Scientology to pay one-third; Gerald Armstrong to pay one-third; Michael Walton to pay one-third.

Dated: 3. 27 - 95

GARY W. THOMAS

GARY W. THOMAS
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE BY MAIL

I am employed in the County of Marin. I am over the age of eighteen years and not a party to the within action; my business address is 900 Larkspur Landing Circle, Suite 185, Larkspur, California 94939.

On March 22, 1995 I served the within REPORT AND RECOMMENDATION OF DISCOVERY REFEREE WITH PROPOSED ORDER RE PLAINTIFF'S MOTION FOR PROTECTIVE ORDER RE INTERROGATORIES and ORDER in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Larkspur, Marin County, California, addressed as follows:

Laurie Bartilson, Esq.
Bowles & Moxon
6255 Sunset Blvd., Suite 2000
Hollywood, CA 90028

Gerald Armstrong
715 Sir Frances Drake Blvd.
San Anselmo, CA 94960

Michael Walton, Esq.
Attorney at Law
P. O. Box 751
San Anselmo, CA 94960

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 22, 1995


KATHY DUSTON NAGEL

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PROOF OF SERVICE BY MAIL

I am employed in the County of Marin. I am over the age of eighteen years and not a party to the within action; my business address is 900 Larkspur Landing Circle, Suite 185, Larkspur, California 94939.

On March 30, 1995 I served the within file-stamped copy of REPORT AND RECOMMENDATION OF DISCOVERY REFEREE WITH PROPOSED ORDER RE PLAINTIFF'S MOTION FOR PROTECTIVE ORDER RE INTERROGATORIES and ORDER which was signed by Judge Thomas in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Larkspur, Marin County, California, addressed as follows:

Laurie Bartilson, Esq.
Bowles & Moxon
6255 Sunset Blvd., Suite 2000
Hollywood, CA 90028

Gerald Armstrong
715 Sir Frances Drake Blvd.
San Anselmo, CA 94960

Michael Walton, Esq.
Attorney at Law
P. O. Box 751
San Anselmo, CA 94960

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 30, 1995


KATHY BUSTON NAGEL